

PUBLIC PROTECTION CABINET
Department of Insurance
Division of Property and Casualty
(As Amended at ARRS, April 13, 2021)

806 KAR 14:110. Dividend plans; filing, participation.

RELATES TO: KRS 304.3-050, 304.12-010, 304.12-080-304.12-110, 304.13-031, 304.13-051, 304.13-053, 304.13-057, 304.13-058, 304.13-061, 304.13-071, 304.13-075, 304.13-169, 304.14-120, 304.15-380, 304.24-250, 304.24-310, 304.24-320, 304.24-330~~[, 304.24-250, 304.13-010-304.13-390, 304.14-120, 304.12-010, 304.12-080-304.12-110]~~

STATUTORY AUTHORITY: KRS 304.2-110

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code, as defined in KRS 304.1-010. ~~[KRS 304.2-110 provides that the Executive Director of Insurance may make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code.]~~ [The function of] This ~~[This]~~ administrative regulation permits the/is to permit ~~[permits the]~~ participation by insureds/of the insured ~~[by insureds]~~ in [writing] dividend premium plans ~~[premiums]~~ under [a] "participating" policies/policy ~~[policies]~~ and requires/shall require ~~[requires]~~ a filing of the ~~[such]~~ dividend plans/plan ~~[plans]~~ with the commissioner ~~[executive director]~~.

Section 1. ~~To~~ ~~[It having been demonstrated that improved safety measures and improved claims handling may result in savings in expenses and in losses over and above those levels anticipated, and it having also been demonstrated that it is possible, in certain cases, for an insurer to identify and group the policyholders contributing to such savings into specific classifications; to further]~~ encourage ~~[such]~~ savings in the net cost of insurance protection, insurers authorized to transact ~~[such]~~ insurance in this state may~~[, after complying with the following conditions]~~, issue a policy/policies ~~[allowing the insured [entitled] to participate [from time to time] in the dividend earning of the insurer [earnings of the insurer through dividends]~~. This administrative regulation shall not apply to dividends to shareholders in a stock company or ~~[companies nor]~~ to [the] general dividends to policyholders/a policyholder ~~[policyholders]~~ in a mutual company ~~[companies]~~.

Section 2. (1) An ~~[Such]~~ insurer shall file or refile with the commissioner ~~[executive director]~~, in ~~[substantially]~~ the same manner as a rate filing, every proposed dividend plan and every modification of a dividend plan ~~[thereof]~~, including discontinuance, which it intends ~~[proposes]~~ to use, accompanied by the information that ~~[upon which the insurer]~~ supports the ~~[such]~~ filing.

(2)(a) ~~[(1)]~~ A filing shall not ~~[No such filing shall]~~ propose ~~[in this state]~~ both a participating and nonparticipating policy ~~[policies]~~ for the same class of risk. Any classification by the insurer of its participating policy ~~[policies]~~ and of risks assumed under that policy ~~[thereunder]~~ which the insurer may make shall be reasonable and nondiscriminatory. In determining the proposed eligibility requirements for a dividend plan, the underlying standard shall be the demonstrated or demonstrable success in savings in expenses or in losses ~~[ever and]~~ above levels anticipated in previously filed rates.

(b) Any proposed dividend plan shall ~~[must]~~ be made available to all insureds meeting the eligibility requirements set forth in the dividend plan. ~~[To facilitate this and to broaden the availability of such programs,]~~

(c) An agent appointed ~~[agents licensed]~~ by one (1) or more companies of a group of affiliated insurers shall also be appointed ~~[licensed]~~ by the company within the ~~[such]~~ group authorized to write participating ~~[such]~~ insurance policies ~~[if the company for which such agent is then licensed does not write such participating policies]~~. Notice and details of the availability of the program in Kentucky shall be given to all licensed agents within the authorized group ~~[of the group's licensed agents]~~.

(3) ~~[(2)]~~ If the ~~[such]~~ filing is an initial filing or the facts or the laws have changed since a prior filing has been used, the filing shall contain either satisfactory evidence of proper specific charter ~~[as defined in KRS 304.3-050]~~, authority to issue a participating policy ~~[policies]~~, or satisfactory evidence that unless otherwise provided by its charter, the laws of its domicile provide that it may issue a policy ~~[policies]~~ entitled to participate in the earnings of the insurer through dividends.

(4) ~~[(3)]~~ The ~~[Such]~~ filing shall also contain proposed policy provisions or proposed policy endorsement forms for the payment of dividends which shall further provide that all ~~[such]~~ dividends ~~[must]~~ be paid by the insurer directly to the insured, and that no ~~[such]~~ dividends may be assigned to associations or others, except upon assignment of the policy for value. If the provision for the payment of dividends is made by separate endorsement rather than incorporated in the policy form, the ~~[such]~~ endorsement shall ~~[must]~~ be attached to each ~~[and every such]~~ policy issued.

Section 3. (1) Dividends to ~~[such]~~ participating policies shall be paid only out of that part of ~~[such]~~ surplus funds that derives ~~[which is derived]~~ from any realized net profits from the insurer's business. ~~An/No~~ ~~[such]~~ insurer or its agents shall not guarantee or promise to a policyholder or prospective policyholder the amount of ~~[of]~~ percentage of dividends to be paid. ~~A/No~~ ~~[; and no]~~ dividend, otherwise earned, shall not be made contingent upon payment of renewal premium on any policy, or membership in, or affiliation with, any association.

(2) All brochures and advertising material shall affirmatively and clearly set forth that dividends are not guaranteed and that all policyholders are eligible for the dividend program whether or not they are members of, or affiliated with, any association.

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